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MISSOULA, MT

2007 JAN 3 PM 4 28

PATRICK E. DUFFY

BY _____
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

IN RE: SUBPOENA ISSUED TO)	MCV 06-22-M-DWM-JCL
MONTANA DEPT. OF HEALTH)	
AND HUMAN SERVICES)	
)	
)	
)	ORDER
)	
)	


United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on December 6, 2006, in which he recommends that the Academy's motion to intervene and quash be denied as moot. The motion arises out of an ancillary discovery proceeding in the United States District Court for the District of Columbia, *Thomas Houlahan v. World Wide Association of Specialty Programs and Schools, et al*, CV 04-01161 (HHK). The motion is moot because of the Court's Order quashing the subpoena upon motion by the Montana Department of Health and Human Services.

Plaintiff Houlahan has not timely objected to this Findings and Recommendation and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court

will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). I can find no clear error with Judge Lynch's recommendation.

Accordingly, IT IS HEREBY ORDERED that the motion to intervene and quash (dkt #1) is DENIED as moot.

DATED this 3rd day of January, 2007.



Donald W. Molloy, Chief Judge
United States District Court